



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/729,980

12/09/2003

George Chin-Sheng Chou

18106-112

2232

60951

7590

02/26/2009

WPAT, PC

INTELLECTUAL PROPERTY ATTORNEYS

2030 MAIN STREET, SUITE 1300

IRVINE, CA 92614

EXAMINER

SWARTZ, RODNEY P

ART UNIT

PAPER NUMBER

1645

MAIL DATE

DELIVERY MODE

02/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Applicants' Response to Final Action, received 6 February 2009, is acknowledged, but will not be entered because the proposed amendment of claim 3 would necessitate a new rejection. Specifically, "consisting of" should be "consist of" because the claim does not contain a verb. However, in order to expedite prosecution, the examiner has considered the new amendments and arguments and responds as if the amendment was entered.
2. Claims 1-7, 11-14 and 21-27 would be pending and would be under consideration.

Rejections which would have been Maintained

3. The rejection of claims 1-7 and 23-27 under 35 U.S.C. 112, second paragraph, as being indefinite for "comprising" language, would have been maintained.

Applicants' argue that the amendment of the claims would obviate the rejection.

The examiner has considered applicants' argument, but does not find it persuasive for the reasoning put forth in the original rejection. The claims would remain drawn to a probe which "comprises" a nucleotide sequence specific for the second PCR DNA product and therefore, is hybridization is detected, it is unclear if this is due to the "specific" region or unknown regions of the probe.

4. The rejection of claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite for "comprising" language would have been maintained.

Applicants' argue that the amendment of the claims would obviate the rejection.

The examiner has considered applicants' argument, but does not find it persuasive for the reasoning put forth in the original rejection. The proposed amendment of claim 3 would have changes only one of the instances of "comprise", i.e., the outer pair of primers. The inner pair of primers remain "comprising" the listed sequences.

Art Unit: 1645

5. The rejection of claims 11-14, 21 and 22 under 35 U.S.C. 112, second paragraph, as being indefinite for "comprising" language would have been maintained.

Applicants' argue that the amendment of the claims would obviate the rejection.

The examiner has considered applicants' argument, but does not find it persuasive for the reasoning put forth in the original rejection. The proposed amendment of the claims would remain drawn to probes which "comprise" a nucleotide sequence.

Conclusion

6. The proposed After Final amendment will not be entered due to the proposed amendment of claim 3, *supra*.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's Supervisor, Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/729,980

Page 4

Art Unit: 1645

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

February 26, 2009